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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,002	07/12/2005	Takeshi Togano	03500.018078.	6162
5514 7590 10/06/2009 FITZPATRICK CELLA HARPER & SCINTO 1290 Avenue of the Americas NEW YORK, NY 10104-3800				
EXAMINER				
CHOW, YUK				
ART UNIT		PAPER NUMBER		
2629				
MAIL DATE		DELIVERY MODE		
10/06/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/542,002

Applicant(s)

TOGANO ET AL.

Examiner

YUK CHOW

Art Unit

2629

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-6, 15, 17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-6, 15 and 17-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 4, 15, 17 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Sakural et al.(US 2006/0087489).

As to **claim 15**, Sakural discloses an electrophoresis display apparatus comprising:

a first substrate and second substrate arranged with a predetermined gap in between (see Fig. 4a, gap between substrate 12 and 11);

an insulating liquid and a plurality of charged particles enclosed in the gap between these substrates (Fig. 4a);

a first electrode placed along said first substrate over a relatively wide area of a pixel (Fig. 4a(13)); and

a second electrode (Fig. 4a(14)) having a voltage applied therebetween and said first electrode, said electrophoresis display apparatus carrying out a display by applying a voltage to these electrodes and moving said charged particles (see [0070]), wherein said first electrode borders said second electrode (see Fig. 4a).

said charged particles are colored in a color (Fig. 4a, particles 15 are in same color), and

a colored layer (Fig. 4a(18)) having the same color as the charged particles is formed in the area of the second electrode and the border portion (see Fig. 4c and [0070]).

As to **claim 4**, Sakural discloses the electrophoresis display apparatus according to claim 15, wherein a support member is placed between said first substrate and said second substrate so as to partition pixels of the display apparatus (see Fig. 4a(16)).

As to **claim 17**, Sakural discloses the electrophoresis display apparatus according to claim 15, wherein the border portion is a strip-shaped portion (see [0167]).

As to **claim 18**, Sakural discloses the electrophoresis display apparatus according to claim 15, wherein the colored layer colors the second electrode and the border portion in the same color as the charged particles (see Fig. 4b and [0070]).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakural et al.(US 2006/0087489) in view of Ikeda et al (US 2003/0048521).

As to **claim 5**, Sakural discloses a electrophoresis display apparatus according to claim 4.

However, Sakural does not teach wherein said second electrode is provided on said support member.

Ikeda '521 discloses an electrophoretic display wherein teach the second electrode is provided on support member (see Fig. 2A-2D).

It would have been obvious to one ordinary skill in the art at the time of invention was made to dispose the second electrode on the support member, because it allows the particles to be located on the surface of the wall cell, thereby improves the display contrast (see Ikeda '521 Abstract).

As to **claim 6**, Sakural discloses a electrophoresis display apparatus according to claim 4, wherein said second electrode is placed between said support member and said second substrate (see Ikeda '521 Fig. 2A-2D).

Response to Arguments

3. Applicant's arguments with respect to claims 4-6, 15,17 and 18 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to YUK CHOW whose telephone number is (571)270-1544. The examiner can normally be reached on 8-6 M-TH E.T..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amare Mengistu can be reached on 571 272-7674. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Y. C./
Examiner, Art Unit 2629

/Amare Mengistu/
Supervisory Patent Examiner, Art Unit 2629